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OFFICE OF PETITIONS

In re Application of :
Yazawa, et al. : DECISION ON APPLICATION
Application No. 09/632,875 : FOR PATENT TERM ADJUSTMENT
Filed: August 4, 2000 :
Atty. Dkt. No.: 9281-3753 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 17, 2005. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 1141 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 1141 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant requests that the Determination of Patent Term Adjustment be corrected from 0 days, as indicated on the Determination of Patent Term Adjustment mailed September 16, 2005, to an adjustment of 1185 days.

A review of the application history reveals that as of the time of allowance, an overall adjustment of 1185 days can be attributed to the Office. In accordance with 37 CFR 1.702(a)(1), an adjustment of 139 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began October 5, 2001, the day after the date that is 14 months after the date that the application was filed, and ended February 20, 2002, the date the restriction requirement was mailed. See 37 CFR 1.703(a)(1).

A further adjustment of 1046 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) for failure to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134

not later than four months after the date on which the reply was filed or the appeal was taken. The adjustment began July 27, 2002, the day after the date that is four months after the date that a response to the restriction requirement was filed, and ended June 6, 2005, the date that the Ex Parte Quayle Action was mailed.

The adjustment of 1185 days is reduced 44 days in accordance with 37 CFR 1.704(c)(4) in connection with the petition to withdraw the holding of abandonment filed January 14, 2004. The reduction began December 2, 2002, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and ended January 14, 2004, the date the petition was filed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 1141 days.

Applicants have further indicated that the patent will issue more than three years from the date upon which it was filed.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). See, also, *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

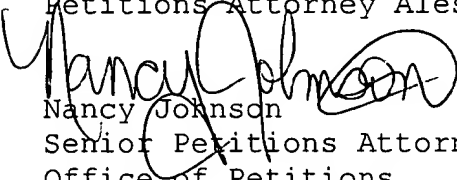
If, upon issuance of the patent, applicants believe that the period of adjustment under 37 CFR 1.702(b) and 1.703(b) has not been properly determined, applicants are advised to submit an application for patent term adjustment (and required fee) within the time period set forth at 37 CFR 1.705(d).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of \$200.00.

This application is being retained in the Office of Petitions to await applicants' request for reconsideration under 37 CFR 1.47. To avoid abandonment of the application, applicants are reminded that

a request for reconsideration under 37 CFR 1.47 must be timely submitted.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation